

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Final Amendments to the Columbia River Basin Fish and Wildlife Program (Measures for Resident Fish and Wildlife)

October 13, 1995.

SUMMARY: Pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, *et seq.*) the Pacific Northwest Electric Power and Conservation Planning Council (Council) has adopted final amendments to the Columbia River Basin Fish and Wildlife Program (Program). These amendments include major changes to the resident fish and wildlife provisions of the Program. Copies of the amendments, the Council's responses to comments received in the amendment process, and findings on amendment recommendations are available on request. See **FOR FURTHER INFORMATION**, below.

BACKGROUND: The Council last amended the resident fish and wildlife measures of the Program on November 10, 1993. The current amendment process began in August of 1994. The Council adopted final amendments, findings and a response to comments on September 13, 1995.

FOR FURTHER INFORMATION CONTACT:

For copies of the final amendments to the Columbia Basin Fish and Wildlife Program, request document no. 95-20. You may request only the amendments, the amendments along with response to comments and findings on amendment recommendations, or any part thereof. For other information, contact the Council's Public Affairs Division, 851 SW Sixth Avenue, Suite 1110, Portland, Oregon 97204 or (503) 222-5161, toll free 1-800-222-3355.

Edward W. Sheets,

Executive Director.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36386; File No. SR-Amex-95-36]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the American Stock Exchange Inc., Relating to Disclaimer Provisions of Amex Rule 902C

October 18, 1995.

I. Introduction

On August 25, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed a proposed rule change with Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² to include Inter@ctive Enterprises L.L.C., published and owner of Inter@ctive Week, in the disclaimer provision of Amex Rule 902C.

Notice of the proposal was published for comment and appeared in the Federal Register on September 18, 1995.³ No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

II. Description of the Proposal.

In conjunction with the Exchange's proposal to trade options on the Inter@ctive Week Internet Index ("Index"), the Exchange proposes to amend Rule 902C to provide a disclaimer for Inter@ctive Enterprises L.L.C. ("Inter@active Enterprises"), publisher and owner of Inter@ctive Week, a bi-weekly magazine. The Exchange's proposal to list and trade options on the Index was filed pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 on August 23, 1995. The Exchange intends to list the Index options for trading on October 18, 1995.⁴ Inter@ctive Enterprises and the Amex developed the Index, based on shares of widely held companies involved in providing digital interactive services, developing and marketing digital interactive software and manufacturing digital interactive hardware. Inter@ctive Enterprises will have two representatives on a

committee with representatives from the Amex and the digital interactive industry to advise the Exchange when the Exchange substitutes stocks, or adjusts the number of stocks included in the Index. The committee will meet on a quarterly basis to review possible candidates for removal or inclusion in the Index. The Exchange, however, will have the ultimate authority over the maintenance of the Index.

The disclaimer, identical in content to disclaimers currently in place for Standard & Poor's Corporation⁵ and Morgan Stanley & Co. Incorporated,⁶ states that Inter@ctive Enterprises L.L.C. does not guarantee the accuracy or completeness of the Index, makes no express or implied warranties with respect to the Index and shall have no liability for any damages, claims, losses or expenses caused by errors in the Index calculation. The Exchange represents that it will have sole discretion over the calculation and maintenance of the Index.⁷

III. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.⁸ Specifically, the Commission finds that the Exchange's proposal strikes a reasonable balance between the Commission's mandates under Section 6(b)(5) to remove impediments to and perfect the mechanism of a free and open market and a national market system, while protecting investors and the public interest.

The Commission believes that it is reasonable for Inter@ctive Enterprises L.L.C. to be released from liability for any damages, claims, losses or expenses related to the Index or caused by errors in the Index calculation. The Commission notes that Inter@ctive Enterprises L.L.C. will not be involved, except in its limited advisory capacity and described above, in the calculation or maintenance of the Index. Additionally, as noted above, the Commission has previously approved similar proposals by the Amex to release various entities from certain liability for damages resulting from use of their products.⁹

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 36212 (September 11, 1995), 60 FR 48180.

⁴ Telephone conversation between Claire McGrath, Special Counsel, Amex, and John Ayanian, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on September 19, 1995. See also Securities Exchange Act Release No. 36163 (August 29, 1995), 60 FR 45750 (September 1, 1995).

⁵ See Amex Rule 902C(c).

⁶ See Amex Rule 902C(d).

⁷ See Release No. 36163, *supra* note 4.

⁸ 15 U.S.C. 78f(b)(5).

⁹ See e.g., Securities Exchange Act Release Nos. 36103 (August 14, 1995), 60 FR 43481 (August 21,

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (File No. SR-Amex-95-36), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95-26431 Filed 10-24-95; 8:45 am]

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[Release No. 34-36391; File No. SR-CBOE-95-52]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Suspension of the Ten Contract Firm Quote Requirement During Fast Markets

October 18, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 5, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rules 8.51, 6.6 and 6.20 Interpretation .09 to: (i) remove the pilot status of Rule 8.51; (ii) conform Rule 8.51 to the existing practice of permitting, but not requiring, Floor Officials to suspend the ten contract firm quote requirement of Rule 8.51(a) during a fast market; (iii) expand the group of persons with authority to grant suspensions, exemptions or exceptions to Rule 8.51 (currently only the Market Performance Committee) to any two Floor Officials; (iv) specify that when a fast market is declared any two Floor Officials have the power to suspend the firm quote requirement of Rule 8.51 and turn off the Retail Automatic Execution System ("RAES"); (v) allow the senior

person then in charge of the Exchange's Control Room to suspend the ten contract firm quote requirement under certain circumstances; and (vi) amend Rule 6.20 Interpretation .09 to clarify the instances where a member of the Market Performance Committee may perform the functions of a Floor Official. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purposes of the proposed rules changes are: (1) to approve Rule 8.51 on a permanent basis, removing the current pilot program designation, (2) to conform Rule 8.51 to the existing practice of permitting, but not requiring, Floor Officials to suspend the ten contract firm quote requirement of Rule 8.51(a) during a fast market, (3) to expand the group of persons with authority to grant suspensions, exemptions, or exceptions to the firm quote requirement from the Market Performance Commission members to any two Floor Officials, (4) to specify that when a fast market is declared pursuant to Rule 6.6, two Floor Officials have the power to suspend the firm quote requirement of Rule 8.51 and turn off RAES, (5) grant the senior person then in charge of the Exchange's Control Room the authority to suspend the ten contract firm quote requirement, if there is a system malfunction that affects the Exchange's ability to disseminate or update market quotes, and (6) to amend Rule 6.20 Interpretation .09 to clarify that the instances where a member of the Market Performance Committee may perform the functions of a Floor Official include enforcing policies and acting pursuant to rules related to RAES, fast markets, and the ten contract firm quote requirement.

Rule 8.51(a) requires a trading crowd to sell (buy) at least ten contracts at the offer (bid) which is displayed when a buy (sell) customer order reaches the

trading crowd. Initially, this rule was adopted as an Exchange pilot program to be monitored and enforced by the Exchange's Market Performance Committee.³ The rule has been in effect since 1989, and the Exchange believes it is now time to remove the designation as a pilot program. The Exchange believes that the rule has been beneficial to investors and has provided greater liquidity to the markets by requiring that the orders of non-broker dealer customers be filled for at least ten contracts at the displayed quote price.

Rule 8.51(a)(2) currently provides that the ten contract firm quote requirement will be in effect unless a fast market has been declared. Although not presently explicit in the rules, it is current practice not to automatically suspend this requirement when a fast market has been declared. Instead, pursuant to Rule 8.51(a)(3), when a fast market has been declared, Market Performance Committee members determine whether the ten contract firm quote requirement in paragraph (a) of Rule 8.51 should be suspended. The proposed amendment would amend Rule 8.51(a)(2) and add Interpretation .07 to clarify that the ten contract firm quote requirement in paragraph (a) of Rule 8.51 is not automatically suspended when a fast market is declared. Instead, Interpretation .07 would provide that any two Floor Officials have the power, but are not required, to suspend this requirement when a fast market has been declared.

CBOE believes the interests of a fair and orderly market are better served when the rules allow Exchange officials the discretion to evaluate market conditions and circumstances and to exercise their judgment as to whether the ten contract firm quote requirement should be suspended in a fast market. This permits the firm quote requirement to remain in place for the benefit of non-broker dealer customers even when a fast market has been declared, except in those specific instances where two Floor Officials have determined that the ten contract firm quote requirement should be suspended.

As set forth in Interpretation .09 to Rule 6.20, members of the Market Performance Committee may perform the functions of Floor Officials for the purpose of enforcing trading conduct policies. As Rule 8.51 is presently written, only the Market Performance Committee or Market Performance Committee members acting as Floor Officials may grant exemptions or make exceptions to Rule 8.51. CBOE believes

³ See Securities Exchange Act Release No. 26924 (June 13, 1989), 54 FR 26284 (June 22, 1989).

1995); and 36283 (September 26, 1995), 60 FR 51825 (October 3, 1995).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.